



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

SENATE BILL NO. 123

FRIDAY, FEBRUARY 11, 2005

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED
DATE March 16, 2005
5:03pm

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 13A.010 is amended to read as follows:

2 As used in this chapter, unless the context otherwise requires:

3 (1) "Administrative body" means each state board, bureau, cabinet, commission,
4 department, authority, officer, or other entity, except the General Assembly and the
5 Court of Justice, authorized by law to promulgate administrative regulations;

6 (2) "Administrative regulation" means each statement of general applicability
7 promulgated by an administrative body that implements, interprets, or prescribes
8 law or policy, or describes the organization, procedure, or practice requirements of
9 any administrative body. The term includes an existing administrative regulation, a
10 new administrative regulation, an emergency administrative regulation, an
11 administrative regulation in contemplation of a statute, the amendment or repeal of
12 an existing administrative regulation, but does not include:

13 (a) Statements concerning only the internal management of an administrative
14 body and not affecting private rights or procedures available to the public;

15 (b) Declaratory rulings;

16 (c) Intradepartmental memoranda not in conflict with KRS 13A.130;

17 (d) Statements relating to acquisition of property for highway purposes and
18 statements relating to the construction or maintenance of highways; or

19 (e) Rules, regulations, and policies of the governing boards of institutions that
20 make up the postsecondary education system defined in KRS 164.001
21 pertaining to students attending or applicants to the institutions, to faculty and
22 staff of the respective institutions, or to the control and maintenance of land
23 and buildings occupied by the respective institutions;

24 (3) "Adopted" means that an administrative regulation has become effective in
25 accordance with the provisions of this chapter;

- 1 (4) "Authorizing signature" means the signature of the head of the administrative body
- 2 authorized by statute to promulgate administrative regulations;
- 3 (5) "Commission" means the Legislative Research Commission;
- 4 (6) "Economic impact" means a financial impact on:
 - 5 (a) Commercial enterprises;
 - 6 (b) Retail businesses;
 - 7 (c) Service businesses;
 - 8 (d) Small businesses;
 - 9 (e) Industry;
 - 10 (f) Government;
 - 11 (g) Consumers of a product or service; or
 - 12 (h) Taxpayers;
- 13 (7) "Effective" means that an administrative regulation has completed the legislative
- 14 subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- 15 (8) "Federal mandate" means any federal constitutional, legislative or executive law or
- 16 order which requires or permits any administrative body to engage in regulatory
- 17 activities which impose compliance standards, reporting requirements,
- 18 recordkeeping, or similar responsibilities upon entities in the Commonwealth;
- 19 (9) "Federal mandate comparison" means a written statement containing the
- 20 information required by KRS 13A.245;
- 21 (10) "Filed" or "promulgated" means that an administrative regulation, or other
- 22 document required to be filed by this chapter, has been submitted to the
- 23 Commission in accordance with this chapter;
- 24 (11) "Government" means and includes a city, county, urban-county, charter county,
- 25 consolidated local government, special district, or a quasi-governmental body
- 26 authorized by the Kentucky Revised Statutes or a local ordinance;
- 27 (12) ~~"Promulgate" means that an administrative body has approved an administrative~~

1 regulation for filing with the Commission in accordance with the provisions of KRS
2 Chapter 13A;

3 ~~(13)}~~ "Proposed administrative regulation" means an administrative regulation that an
4 administrative body proposes to promulgate;

5 ~~(13)~~~~(14)}~~ "Regulatory impact analysis" means a written statement containing the
6 provisions required by KRS 13A.240;

7 ~~(14)~~~~(15)}~~ "Small business" means a business entity, including its affiliates, that:

8 (a) Is independently owned and operated; and

9 (b) 1. Employs fewer than one hundred fifty (150) full-time employees or their
10 equivalent; or

11 2. Has gross annual sales of less than six million dollars (\$6,000,000).

12 ~~(15)~~~~(16)}~~ "Statement of consideration" means that an administrative body must either
13 accept suggestions or recommendations regarding an administrative regulation or
14 issue a concise statement setting forth the reasons for not accepting suggestions or
15 recommendations regarding an administrative regulation;

16 ~~(16)~~~~(17)}~~ "Subcommittee" means the Administrative Regulation Review Subcommittee,
17 any other subcommittee of the Legislative Research Commission, an interim joint
18 committee, or a House and Senate standing committee; and

19 ~~(17)~~~~(18)}~~ "Tiering" means the tailoring of regulatory requirements to fit the particular
20 circumstances surrounding regulated entities.

21 Section 2. KRS 13A.040 is amended to read as follows:

22 The director of the Legislative Research Commission shall appoint an administrative
23 regulations compiler who shall:

24 (1) Receive administrative regulations, and other documents required to be filed by the
25 provisions of this chapter, tendered for filing;

26 (2) Stamp administrative regulations tendered for filing with the time and date of
27 receipt;

- 1 (3) Provide administrative and support services to the subcommittee;
- 2 (4) Maintain a file of administrative regulations and other documents required to be
- 3 filed by this chapter, for public inspection, with suitable indexes;
- 4 (5) Maintain a file of ineffective administrative regulations;
- 5 (6) Maintain a file of material incorporated by reference, including superseded or
- 6 ineffective material incorporated by reference;
- 7 (7) Prepare the Kentucky Administrative Regulations Service;
- 8 (8) Upon request, certify copies of administrative regulations and other documents that
- 9 have been filed with the regulations compiler;
- 10 (9) Correct errors that do not change the substance of an administrative regulation,
- 11 including, but not limited to, typographical errors, errors in format, and grammatical
- 12 errors;
- 13 (10) Change items in an administrative regulation in response to a specific written
- 14 request submitted by the administrative body if the regulations compiler
- 15 determines that the requested changes do not affect the substance of the
- 16 administrative regulation. The changes may include the address of the
- 17 administrative body, citations to statutes or other administrative regulations if a
- 18 format change within that statute or administrative regulation has changed the
- 19 numbering or lettering of parts, or other changes in accordance with KRS
- 20 13A.312;
- 21 (11) Refuse to accept for filing administrative regulations, and other documents required
- 22 to be filed by this chapter, that do not conform to the drafting, format, or filing
- 23 requirements established by the provisions of KRS Chapter 13A, and notify the
- 24 administrative body in writing of the reasons for refusing to accept an
- 25 administrative regulation for filing; and
- 26 (12)~~[(11)]~~ Perform other duties required by the Commission or by a subcommittee.

27 Section 3. KRS 13A.050 is amended to read as follows:

1 (1) The Legislative Research Commission shall compile, publish, and distribute the
2 administrative regulations filed by administrative bodies. This compilation shall be
3 known as the Kentucky Administrative Regulations Service and shall constitute the
4 official state publication of administrative regulations.

5 (2) (a) There is hereby created a publication known as "The Administrative Register"
6 to be printed and published on a monthly basis by the Legislative Research
7 Commission for the purpose of giving notice of administrative regulations
8 filed in accordance with this chapter.

9 (b) Every administrative regulation forwarded to the Legislative Research
10 Commission shall have its complete text printed in the Administrative
11 Register along with the accompanying statements required by KRS 13A.190,
12 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.

13 (c) Within five (5) workdays of the publication of an administrative regulation in
14 the Administrative Register, an administrative body shall:

15 1. Review the text and accompanying statements of the administrative
16 regulation; and

17 2. Notify the regulations compiler in writing or by e-mail of errors.

18 (3) The Administrative Register shall be published the first day of each month and shall
19 include all administrative regulations received by the Legislative Research
20 Commission by 12 noon, eastern time, on the fifteenth day of the preceding month.
21 When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the
22 workday which immediately precedes the Saturday, Sunday, or holiday.

23 (4) The compiler shall cause to be prepared a certificate to the effect that the text of the
24 administrative regulations as printed in this service is correct. One (1) copy of the
25 Kentucky Administrative Regulations Service with the original certificate therein
26 shall be maintained in the Office of the Secretary of State. All other copies shall
27 contain a printed copy of the certificate and shall constitute prima facie evidence of

1 the law in all courts and proceedings.

2 (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky
3 Administrative Regulations Service and the Administrative Register. All fees paid
4 to the Commission for these publications shall be placed in the State Treasury to the
5 credit of a revolving trust or agency fund account, for use by the Legislative
6 Research Commission in carrying out the provisions of this section.

7 (6) Copies of regulatory impact analysis shall be made available to any interested party
8 upon request to the Legislative Research Commission. The Commission may
9 prescribe reasonable fees for duplication services and all fees paid to the
10 Commission for duplication services shall be placed in the State Treasury to the
11 credit of a revolving trust or agency fund account, for use by the Legislative
12 Research Commission in carrying out the provisions of this subsection.

13 Section 4. KRS 13A.150 is amended to read as follows:

14 (1) When any section of this chapter requires that an action be taken at a specified date
15 with regard to filing of items to the Commission and the section does not specify a
16 time deadline, they shall be filed on or before 12 noon, eastern time, on the
17 specified date.

18 (2) When any section of this chapter requires that an action be taken at a specified date
19 and the specified date falls on a Saturday, Sunday, or holiday, the action shall be
20 taken on or before 12 noon, eastern time, on the working day immediately preceding
21 the Saturday, Sunday, or holiday unless the statute specifies a different deadline.

22 (3) When any section of this chapter requires that a meeting be held on or before a
23 specified date and the specified date falls on a Saturday, Sunday, or holiday, the
24 meeting shall be held on or before close of business on the working day
25 immediately following the Saturday, Sunday, or holiday.

26 Section 5. KRS 13A.190 is amended to read as follows:

27 (1) An emergency administrative regulation is one that:

- 1 (a) Must be placed into effect immediately in order to:
- 2 1. Meet an imminent threat to public health, safety, or welfare;
- 3 2. Prevent a loss of federal or state funds;
- 4 3. Meet a deadline for the promulgation of an administrative regulation that
- 5 is established by state law, or federal law or regulation; or
- 6 4. Protect human health and the environment; and
- 7 (b) 1. Is temporary in nature and will expire as provided in this section; or
- 8 2. Is temporary in nature and will be replaced by an ordinary administrative
- 9 regulation as provided in this section.
- 10 (2) Emergency administrative regulations shall become effective and shall be
- 11 considered as adopted upon filing. Emergency administrative regulations shall be
- 12 published in the next Administrative Register.
- 13 (3) (a) Except as provided by paragraph (b) of this subsection, emergency
- 14 administrative regulations shall expire one hundred eighty (180)~~[seventy~~
- 15 ~~(170)]~~ days after the date of filing~~[publication]~~ or when the same matter filed
- 16 as an ordinary administrative regulation filed for review is adopted, whichever
- 17 occurs first.
- 18 (b) If an administrative body extends the time for filing a statement of
- 19 consideration as provided by KRS 13A.280(2)(b), an emergency
- 20 administrative regulation shall remain in effect for one hundred eighty
- 21 (180)~~[seventy (170)]~~ days after the date of filing~~[publication]~~ plus the number
- 22 of days extended under the provisions of KRS 13A.280(2)(b) or when the
- 23 same matter filed as an ordinary administrative regulation filed for review
- 24 is adopted, whichever occurs first.
- 25 (4) An emergency administrative regulation shall not be filed for a period of nine (9)
- 26 months after it has been initially filed. No other emergency administrative
- 27 regulation that is identical to or substantially the same as the previously filed

1 emergency administrative regulation shall be promulgated.

2 (5) When an emergency administrative regulation governing the same subject matter
3 governed by an emergency administrative regulation filed within the previous nine
4 (9) months is filed, it shall contain a detailed explanation of the manner in which it
5 differs from the previously filed emergency administrative regulation. The detailed
6 explanation shall be included in the statement of emergency.

7 (6) Each emergency administrative regulation shall contain a statement of:

8 (a) The nature of the emergency;

9 (b) The reasons why an ordinary administrative regulation is not sufficient;

10 (c) Whether or not the emergency administrative regulation will be replaced by an
11 ordinary administrative regulation;

12 (d) If the emergency administrative regulation will be replaced by an ordinary
13 administrative regulation, the following statement: "The ordinary
14 administrative regulation [is or is not] identical to this emergency
15 administrative regulation.";

16 (e) If the emergency administrative regulation will not be replaced by an ordinary
17 administrative regulation, the reasons therefor; and

18 ~~(f)(e)}~~ If applicable, the explanation required by subsection (5) of this section.

19 (7) An administrative body shall attach the:

20 (a) Statement of emergency required by subsection (6) of this section to the front
21 of the original and each copy of a proposed emergency administrative
22 regulation; and

23 (b) Regulatory impact analysis, tiering statement, federal mandate comparison,
24 fiscal note, summary of material incorporated by reference if applicable, and
25 other forms or documents required by the provisions of this chapter to the
26 back of the emergency administrative regulation.

27 (8) (a) If an emergency administrative regulation will not be replaced by an ordinary

1 administrative regulation, the administrative body shall schedule a public
 2 hearing and public comment period pursuant to KRS 13A.270(1). The public
 3 hearing and public comment period information required by KRS 13A.270(2)
 4 shall be attached to the back of the emergency administrative regulation.

5 (b) If an emergency administrative regulation will be replaced by an ordinary
 6 administrative regulation:

7 1. The ordinary administrative regulation shall be filed at the same time as
 8 the emergency administrative regulation that will be replaced; and

9 2. A public hearing and public comment period shall not be required for
 10 the emergency administrative regulation.

11 (9) The statement of emergency shall have a two (2) inch top margin. The number of
 12 the emergency administrative regulation shall be typed directly below the heading
 13 "Statement of Emergency." The number of the emergency administrative regulation
 14 shall be the same number as the ordinary administrative regulation followed by an
 15 "E."

16 (10) Each executive department emergency administrative regulation shall be signed by
 17 the head of the administrative body and countersigned by the Governor prior to
 18 filing with the Commission. These signatures shall be on the statement of
 19 emergency attached to the front of the emergency administrative regulation.

20 (11) (a) If an ordinary administrative regulation that was filed to replace an emergency
 21 administrative regulation is withdrawn, the emergency administrative
 22 regulation shall expire on the date the ordinary administrative regulation is
 23 withdrawn.

24 (b) If an ordinary administrative regulation that was filed to replace an emergency
 25 administrative regulation is withdrawn, the administrative body shall inform
 26 the regulations compiler of the reasons for withdrawal in writing.

27 (12) (a) If an emergency administrative regulation, that was intended to be replaced by

1 an ordinary administrative regulation, is withdrawn, the emergency
2 administrative regulation shall expire on the date it is withdrawn.

3 (b) If an emergency administrative regulation has been withdrawn, the ordinary
4 administrative regulation that was filed with it shall not expire unless the
5 administrative body informs the regulations compiler that the ordinary
6 administrative regulation is also withdrawn.

7 (c) If an emergency administrative regulation is withdrawn, the administrative
8 body shall inform the regulations compiler of the reasons for withdrawal in
9 writing.

10 (13) A subcommittee may review an emergency administrative regulation and may
11 recommend to the Governor that the regulation be withdrawn.

12 Section 6. KRS 13A.220 is amended to read as follows:

13 All administrative regulations shall comply with the provisions of KRS 13A.222 and
14 13A.224.

15 (1) An administrative body shall file with the regulations compiler:

16 (a) The original and five (5) copies of an administrative regulation; and

17 (b) At the same time the original and five (5) copies are filed, an electronic
18 version, if available, of the administrative regulation and required attachments
19 on a diskette or by e-mail in an electronic format approved by the regulations
20 compiler.

21 (2) The original and each copy of each administrative regulation shall be stapled in the
22 top left corner. The original and the five (5) copies of each administrative regulation
23 shall be grouped together.

24 (3) An amendment to an administrative regulation shall not be made on a copy of the
25 administrative regulation reproduced from the Kentucky Administrative
26 Regulations Service or the Administrative Register. It shall be a typed original in
27 the format specified in subsection (4) of this section.

- 1 (4) The format of an administrative regulation shall be as follows:
- 2 (a) An administrative regulation shall be typewritten on white paper, size eight
- 3 and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through
- 4 the last line of the body of the administrative regulation. The first page shall
- 5 have a two (2) inch top margin. The administrative regulation shall be typed in
- 6 a twelve (12) point font approved by the regulations compiler. The lines on
- 7 each page shall be numbered, with each page starting with line number one
- 8 (1). Pages of an administrative regulation and documents attached to the
- 9 administrative regulation shall be numbered sequentially. Page numbers shall
- 10 be centered in the bottom margin of each page. Copies of the administrative
- 11 regulation may be mechanically reproduced;
- 12 (b) The regulations compiler shall place a stamp indicating the date and time of
- 13 receipt of the administrative regulation in the two (2) inch margin on the first
- 14 page;
- 15 (c) The cabinet, department, and division of the administrative body shall be
- 16 listed on separate double-spaced lines two (2) inches from the top in the upper
- 17 left hand corner of the first page. This shall be followed on the next double-
- 18 spaced line by "(New Administrative Regulation)," "(Amendment),"
- 19 "(Amended After Comments)," "(Repealer)," "(New Emergency
- 20 Administrative Regulation)," "(Emergency Amendment)," or "(Emergency
- 21 Repealer)," whichever is applicable;
- 22 (d) The notation shall be followed by the number and title of the administrative
- 23 regulation on the next double-spaced line. The promulgating administrative
- 24 body shall contact the regulations compiler prior to filing to obtain an
- 25 administrative regulation number for a new administrative regulation;
- 26 (e) On the next double-spaced line following the number and title of an
- 27 administrative regulation, after the words "RELATES TO:," the

1 administrative body shall list all statutes and other enactments, including any
 2 branch budget bills or executive orders, to which the administrative regulation
 3 relates or which shall be affected by the administrative regulation. After the
 4 words "STATUTORY AUTHORITY:" the administrative body shall list the
 5 specific statutes and other enactments, where applicable, authorizing the
 6 promulgation of the administrative regulation. Federal statutes and regulations
 7 shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:"
 8 sections as provided by KRS 13A.2261~~[, 13A.2264, 13A.2267]~~; and

9 (f) Following the citations provided for in paragraph (e) of this subsection, and
 10 following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the
 11 administrative body shall include a brief statement setting forth the necessity
 12 for promulgating the administrative regulation, a summary of the functions
 13 intended to be implemented by the administrative regulation, and, if
 14 applicable, the statement required by KRS 13A.245(2)(b).

15 (5) The numbering within the body of an administrative regulation shall be the
 16 responsibility of the promulgating body, subject to the authority of the regulations
 17 compiler to divide or renumber an administrative regulation. The following format
 18 shall be used by the administrative body in the numbering of each administrative
 19 regulation. Each section shall begin with the word "Section" followed by an Arabic
 20 number, and titles of sections shall be initially capitalized. Subsections shall be
 21 designated by an Arabic number in parentheses. Paragraphs shall be designated by
 22 lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.).
 23 Subparagraphs shall be designated by an Arabic number followed by a period (e.g.,
 24 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet
 25 followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower
 26 case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).

27 (6) After the complete text of an administrative regulation, on the following page, the

1 administrative body shall include the following information:

2 (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the
3 official or the head of the administrative body has reviewed or approved the
4 administrative regulation; the signature of such official or head; and the date
5 on which such review or approval occurred;

6 (b) The authorizing signature of the administrative body promulgating the
7 administrative regulation, and the date on which the administrative body
8 approved the promulgation;

9 (c) Information relating to public hearings as required by KRS 13A.160 and
10 13A.270 and the public comment period required by KRS 13A.270; and

11 (d) The name, position, address, telephone number, and facsimile number of the
12 contact person of the administrative body. The contact person shall be the
13 person authorized by the head of an administrative body to:

14 1. Receive information relating to issues raised by the public or by a
15 subcommittee prior to a public meeting of the subcommittee;

16 2. Negotiate changes in language with a subcommittee in order to resolve
17 such issues; and

18 3. Answer questions relating to the administrative regulation.

19 (7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of
20 this section shall be as follows:

21 (a) The signature shall be placed on a signature line; and

22 (b) The name and title of the person signing shall be typed immediately beneath
23 the signature line.

24 Section 7. KRS 13A.222 is amended to read as follows:

25 (1) In a new administrative regulation, there shall be no underlining or bracketing.

26 (2) In an amendment to an administrative regulation, the new words shall precede the
27 deleted words. Exceptions may be permitted by the regulations compiler. The

1 administrative body shall:

2 (a) Underline all new words; and

3 (b) Place the deleted words in brackets and strike through these words.

4 (3) (a) An administrative regulation shall not be amended by reference to a section
5 only. An amendment shall contain the full text of the administrative regulation
6 being amended.

7 (b) A section of an administrative regulation shall not be reserved for future use.

8 (4) In drafting administrative regulations, the administrative body shall comply with the
9 following:

10 (a) The administrative body shall use plain and unambiguous words that are
11 easily understood by laymen. The administrative body shall avoid ambiguous,
12 indefinite, or superfluous words and phrases;

13 (b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not."
14 "Should," "could," or "must" shall not be used. The future tense shall not be
15 expressed by the word "shall." A discretionary power shall be expressed by
16 "may;"

17 (c) The words "said," "aforesaid," "hereinabove," "hereinafter,"
18 "beforementioned," "whatsoever," or similar words of reference or emphasis
19 shall not be used. Where an article may be used, the administrative body shall
20 not use the word "such." It shall not use the expression "and/or" and shall not
21 separate alternatives with a slash. It shall not use contractions. When a number
22 of items are all mandatory, the word "and" shall be used. When all of a
23 number of items are not mandatory, the word "or" shall be used;

24 (d) Certain words are defined in the Kentucky Revised Statutes. Where
25 applicable, these definitions shall be used. Definitions appearing in the
26 Kentucky Revised Statutes shall not be duplicated in a proposed
27 administrative regulation. A reference shall be made to the chapters and

1 sections of the Kentucky Revised Statutes in which ~~the~~[such] definitions
 2 appear;

3 (e) If definitions are used, they shall be placed in alphabetical order in the first
 4 section of an administrative regulation or in a separate administrative
 5 regulation. The section or administrative regulation shall be titled
 6 "Definitions." If definitions are placed in the first section of an administrative
 7 regulation, the definitions shall govern only the terms in that administrative
 8 regulation. If definitions are placed in a separate administrative regulation,
 9 that administrative regulation shall be the first administrative regulation of the
 10 specific chapter of the Kentucky Administrative Regulations Service to which
 11 the definitions apply. The title of the administrative regulation shall also
 12 contain the number of the chapter of the Kentucky Administrative Regulations
 13 Service to which the definitions apply. In the text of an administrative
 14 regulation, the word defined in the definitions section, rather than the
 15 definition, shall be used. Definitions shall be used only:

- 16 1. When a word is used in a sense other than its dictionary meaning, or is
 17 used in the sense of one of several dictionary meanings;
- 18 2. To avoid repetition of a phrase; or
- 19 3. To limit or extend the provisions of an administrative regulation;

20 (f) If a word has the same meaning as a phrase, the word shall be used;

21 (g) The present tense and the indicative mood shall be used. Conditions precedent
 22 shall be stated in the perfect tense if their happening is required to be
 23 completed;

24 (h) The same arrangement and form of expression shall be used throughout an
 25 administrative regulation, unless the meaning requires variations;

26 (i) "If" or "except" shall be used rather than "provided that" or "provided,
 27 however." "If" shall be used to express conditions, rather than the words

1 "when" or "where;"

2 (j) A word importing the masculine gender may extend to females. A word
3 importing the singular number may extend to several persons or things;

4 (k) Any reference in an administrative regulation to "medical doctor," "M.D.,"
5 or "physician" shall be deemed to include a doctor of osteopathy or D.O.,
6 unless either of those terms is specifically excluded.

7 (l) An administrative body shall use the phrases specified in this subsection:

8	Do Not Use:	Use:
9	And/or	"and" for a conjunctive
10		"or" for a disjunctive
11	Any and all	either word
12	As provided in this	
13	administrative regulation	----
14	At the time	when
15	And the same hereby is	is
16	Either directly or indirectly	----
17	Except where otherwise	State specific
18	provided	exemption.
19	Final and conclusive	final
20	Full force and effect	force or effect
21	In the event that; In case	if
22	Is authorized; Is empowered	may
23	Is defined and shall be	
24	construed to mean	means
25	Is hereby required to	shall
26	It shall be lawful	may
27	Latin words	Do not use unless medical or

1 scientific terminology.

2 Null and void and of no effect void

3 Order and direct either word

4 Provision of law law

5 Until such time as until

6 Whenever if

7 ~~(m)(1)~~ 1. Unless the authority for an administrative regulation is an
 8 appropriation provision that is not codified in the Kentucky Revised
 9 Statutes, the specific chapter and section number of the Kentucky
 10 Revised Statutes authorizing the promulgation of an administrative
 11 regulation shall be cited.

12 2. a. If an act has not been codified in the Kentucky Revised Statutes at
 13 the time an administrative regulation is promulgated, or if the
 14 authority is any branch budget bill, the citation shall be as follows:
 15 "(year) Ky. Acts ch. (chapter number), sec. (section number)."
 16 When an act has been codified, the administrative body shall notify
 17 the regulations compiler of the proper citation in writing. Upon
 18 receipt of ~~the~~~~[such]~~ written notice, the regulations compiler shall
 19 correct the citation.

20 b. For acts of extraordinary sessions, the citation shall be as follows:
 21 "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section
 22 number)." If there is more than one (1) extraordinary session of the
 23 General Assembly in the year, the citation shall specify the specific
 24 extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky.
 25 Acts ch. (chapter number), sec. (section number)."

26 3. When an act has been codified, the administrative body shall notify the
 27 regulations compiler of the proper citation of the Kentucky Revised

Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.

4. a. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."

b. If appropriate, the citation of an appropriation act shall include a citation to the appropriate part of the budget memorandum.

5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)."

~~(n)~~~~(m)~~ If the statutory authority is a federal law, the citation shall be the:

1. United States Code (U.S.C.), if it has been codified; or

2. Public Law (Pub. L.) and official session laws, if it has not been codified.

~~(o)~~~~(n)~~ 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."

2. a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."

b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

3. a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which

the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."

- b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

~~(p)~~~~(e)~~ Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs~~(l)~~, (m),~~and~~ (n), **and (o)** of this subsection.

~~(q)~~~~(p)~~ An administrative regulation may cite the popular name of a federal or state law if the popular name is accompanied by the citation required by this paragraph.

Section 8. KRS 13A.2245 is amended to read as follows:

- (1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute:

- (a) Requires an administrative body to implement, or a regulated entity to comply with, the provisions of that code or uniform standard; and
- (b) Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.

- (2) If a code or uniform standard is **changed**~~adopted with changes~~ by the administrative body, the administrative body shall:

(a) Clearly state the provisions in the body of the administrative regulation that are different than those included in the code or uniform standard; and

(b) File with the regulations compiler a:

1.~~(a)~~ Copy of the code or uniform standard;

2.~~(b)~~ Summary listing the pages upon which changes have been made;

1 and

2 ~~3.{{e}}~~ Detailed summary of the changes and their effect.

3 The summaries shall be attached to the back of the proposed administrative
4 regulation.

5 (3) If a federal regulation requires an administrative body to adopt, develop, or
6 implement material of a scientific or technical nature that does not lend itself to the
7 format requirements of KRS Chapter 13A, the administrative body may incorporate
8 ~~the[such]~~ material by reference in an administrative regulation as provided by KRS
9 13A.2251 and 13A.2255.

10 Section 9. KRS 13A.2251 is amended to read as follows:

11 (1) An administrative body shall incorporate material by reference in the last section of
12 an administrative regulation. This section shall include:

13 (a) The title~~[and edition]~~ of the material incorporated by reference placed in
14 quotation marks, *followed by the edition date of the material*;

15 (b) Information on how the material may be obtained; and

16 (c) A statement that the material is available for public inspection and copying,
17 subject to copyright law, at the main, regional, or branch offices of the
18 administrative body, and the address and office hours of each. *Following the*
19 *required statement, the administrative body may include optional*
20 *information that states the administrative body's Web site address or*
21 *telephone number or that provides contact information for other sources*
22 *that may have the material available to the public.*

23 (2) The section incorporating material by reference shall be titled "Incorporation by
24 Reference".

25 (a) If only one (1) item is incorporated by reference, the first subsection of the
26 section incorporating material by reference shall contain the following
27 statement: "(name and edition date of material incorporated) is incorporated

1 by reference."

2 (b) If more than one (1) item is incorporated by reference, the first subsection of
3 the section incorporating material by reference shall contain the following
4 statement: "The following material is incorporated by reference: (a) (name and
5 edition date of first item incorporated); and (b) (name and edition date of
6 second item incorporated)."

7 (c) The second subsection of the section incorporating material by reference shall
8 include the following statement: "This material may be inspected, copied, or
9 obtained, subject to applicable copyright law, at (name of administrative
10 body[agency], full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."

11 (3) A summary of the incorporated material, in detail sufficient to identify the subject
12 matter to which it pertains, shall be attached to an administrative regulation that
13 incorporates material by reference. This summary shall include:

14 (a) Relevant programs, statutes, funds, rights, duties, and procedures affected by
15 the material and the manner in which they are affected;

16 (b) A citation of the specific state or federal statutes or regulations authorizing or
17 requiring the procedure or policy found in the material incorporated by
18 reference; and

19 (c) The total number of pages incorporated by reference.

20 (4) (a) One (1) copy of the material incorporated by reference shall be filed with the
21 regulations compiler when the administrative regulation is filed.

22 (b) Material incorporated by reference shall be placed in a binder, attached to the
23 back of the administrative regulation, or filed on a CD-ROM or DVD.

24 1. If the material is placed in a binder, the administrative body shall
25 indicate~~write, stamp, or type~~, on the front binder cover and on the first
26 page of the material incorporated by reference, the:

27 a. Number of the administrative regulation to which the material

incorporated by reference pertains;

b. ~~[, the]~~ Date on which it is filed; ~~[,]~~ and

c. ~~[the]~~ Citation of each item that is included in the binder.

2. The material incorporated by reference may be attached to the back of the administrative regulation if it is:

a. No more than four (4) pages in length; and

b. Typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches, and single-sided.

3. The material incorporated by reference may be filed on a CD-ROM or DVD disc if the material is saved in Adobe Portable Document Format (PDF). The administrative body shall indicate on the disc and the disc's storage case the:

a. Number of the administrative regulation to which the material incorporated by reference pertains;

b. Date on which it is filed; and

c. Citation of each item that is included on the disc.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder or on a CD-ROM or DVD disc. The numbers of the administrative regulations in which the material is incorporated by reference shall be indicated with the other information as required by paragraph (b) of this subsection ~~[written, stamped, or typed on the:~~

~~1. Front binder cover; and~~

~~2. First page of the material incorporated by reference].~~

Section 10. KRS 13A.2255 is amended to read as follows:

When an administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

- 1 (1) An entire new document in which the amendments have been made but are not
- 2 reflected in the manner specified in KRS 13A.222(2); and
- 3 (2) A~~[summary listing the pages upon which changes have been made, and a]~~ detailed
- 4 summary of the changes and their effect. This summary shall be attached to the
- 5 administrative regulation~~[- and~~
- 6 ~~(3) The page or pages of the document in which changes have been made, with the~~
- 7 ~~changes accomplished in the manner specified in KRS 13A.222(2)].~~

8 Section 11. KRS 13A.2261 is amended to read as follows:

9 Federal statutes and regulations shall not be incorporated by reference. If applicable, they
 10 shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a
 11 proposed administrative regulation.

12 Section 12. KRS 13A.230 is amended to read as follows:

- 13 (1) The administrative body shall attach the following forms to the back of the original
- 14 and each copy of an administrative regulation:
 - 15 (a) Regulatory impact analysis as required by KRS 13A.240;
 - 16 (b) Tiering statement as required by KRS 13A.210;
 - 17 (c) Fiscal note as required by KRS 13A.250, if the administrative regulation
 - 18 relates to any aspect of local government or any service provided thereby;
 - 19 (d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and
 - 20 (e) The summaries provided for in KRS 13A.2245~~[13A.2261, 13A.2264, and~~
 - 21 ~~13A.2267]~~, if applicable.
- 22 (2) The forms required by subsection (1) of this section shall be obtained from the
- 23 regulations compiler.

24 Section 13. KRS 13A.240 is amended to read as follows:

- 25 (1) Every administrative body shall prepare and submit to the Legislative Research
- 26 Commission an original and five (5) duplicate copies of a regulatory impact analysis
- 27 for every administrative regulation when it is filed with the Commission. The

1 regulatory impact analysis shall include~~[, but not be limited to,]~~ the following
2 information:

3 (a) A brief narrative summary of:

- 4 1. What the administrative regulation does;
- 5 2. The necessity of the administrative regulation;
- 6 3. How the administrative regulation conforms to the content of the
7 authorizing statutes; and
- 8 4. How the administrative regulation currently assists or will assist in the
9 effective administration of the statutes;

10 (b) If this is an amendment to an existing administrative regulation, a brief
11 narrative summary of:

- 12 1. How the amendment will change the existing administrative regulation;
- 13 2. The necessity of the amendment to the administrative regulation;
- 14 3. How the amendment conforms to the content of the authorizing statutes;
15 and
- 16 4. How the amendment to the administrative regulation will assist in the
17 effective administration of the statutes;

18 (c) The type and number of individuals, businesses, organizations, or state and
19 local governments affected by the administrative regulation;

20 (d) An assessment of how the above group or groups will be impacted by either
21 the implementation of this administrative regulation, if new, or by the change
22 if it is an amendment to an existing administrative regulation;

23 (e) An estimate of how much it will cost to implement this administrative
24 regulation, both initially and on a continuing basis;

25 (f) The source of the funding to be used for the implementation and enforcement
26 of the administrative regulation;

27 (g) An assessment of whether an increase in fees or funding will be necessary to

1 implement this administrative regulation or amendment to an existing
2 administrative regulation;~~[-and]~~

3 (h) A statement as to whether or not this administrative regulation establishes any
4 fees or directly or indirectly increases any fees; and

5 (i) *The tiering statement required by KRS 13A.210.*

6 (2) The Legislative Research Commission shall review all regulatory impact analyses
7 submitted by all administrative bodies, and prepare a written analysis thereof and of
8 the administrative regulation. The Legislative Research Commission may require
9 any administrative body to submit background data upon which the information
10 required by subsection (1) is based, and an explanation of how the data was
11 gathered.

12 Section 14. KRS 13A.255 is amended to read as follows:

13 (1) Within five (5) working days of the filing of an ordinary administrative regulation
14 that proposes to establish or increase fees, except those fees exempted by KRS
15 13A.100(3), an administrative body shall mail a notice containing the information
16 required by subsection (2) of this section, to each state association, organization, or
17 other body representing a person or entity affected by the administrative regulation.

18 (2) The notice shall include the following information:

19 (a) The name of the administrative body that filed the proposed administrative
20 regulation;

21 (b) A statement that the administrative body has promulgated an administrative
22 regulation that establishes or increases fees;

23 (c) A summary of the administrative regulation that includes:

- 24 1. The amount of each fee being established;
- 25 2. The amount of any increases to any fees previously established; and
- 26 3. The necessity for the establishment or increase in the fees;

27 (d) A statement that a person or entity may contact the administrative body for

1 additional information;

2 (e) The time, date, and place of the scheduled public hearing;~~and~~

3 (f) The deadline for submitting written comments as established in subsection
 4 (1)(c) of Section 15 of this Act; and

5 (g) The name, address, and telephone number of the contact person for the
 6 administrative body.

7 Section 15. KRS 13A.270 is amended to read as follows:

8 (1) (a) In addition to the public comment period required by paragraph (c) of this
 9 subsection, following publication in the Administrative Register of the text of
 10 an administrative regulation, the administrative body shall, unless authorized
 11 to cancel the hearing pursuant to subsection (7) of this section, hold a hearing,
 12 open to the public, on the administrative regulation.

13 (b) The public hearing shall not be held before the twenty-first day or later than
 14 the last workday of the month in which the administrative regulation is
 15 published in the Administrative Register.

16 (c) The administrative body shall accept written comments regarding the
 17 administrative regulation until the end of the calendar month in which the
 18 administrative regulation was published~~for a period of thirty (30) days~~
 19 ~~following the publication of the administrative regulation~~ in the
 20 Administrative Register. If the last~~thirtieth~~ day of the calendar
 21 month~~comment period~~ falls on a Saturday, Sunday, or holiday, the
 22 administrative body shall consider all comments received prior to the close
 23 of business of the first~~last day of the comment period shall be the~~ workday
 24 following the Saturday, Sunday, or holiday.

25 (2) Each administrative regulation shall state:

26 (a) The place, time, and date of the scheduled public hearing;

27 (b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and
 2. Written comments;
- (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;
- (d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and
- (e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.
- (3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first. The form shall include a space for the person to provide an e-mail address in order to receive the information electronically. The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties.
- (b) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed~~mailed~~:
1. To every person who has:
 - a. Filed this form with the administrative body; and
 - b. Provided an e-mail address to the administrative body;
 2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

- 1 3. With a request~~[cover letter]~~ from the administrative body~~[requesting]~~
 2 that affected individuals, businesses, or other entities submit written
 3 comments that identify the anticipated effects of the proposed
 4 administrative regulation.

5 (c) Within five (5) working days after the date the administrative regulation is
 6 filed with the Commission, the administrative body shall mail the following
 7 information to every person who has filed the form with the administrative
 8 body but did not provide an e-mail address:

9 1. A cover letter from the administrative body requesting that affected
 10 individuals, businesses, or other entities submit written comments that
 11 identify the anticipated effects of the proposed administrative
 12 regulation;

13 2. A copy of the regulatory impact analysis required by Section 13 of this
 14 Act completed in detail sufficient to put the individual on notice as to
 15 the specific contents of the administrative regulation, including all
 16 proposed amendments to the administrative regulation; and

17 3. A statement that a copy of the administrative regulation may be
 18 obtained from the Commission's Web site, which can be accessed on-
 19 line through public libraries or any computer with Internet access.
 20 The Commission's Web site address shall be included in the statement.

- 21 (4) (a) If small business may be impacted by an administrative regulation, the
 22 administrative body shall e-mail a copy of the administrative regulation as
 23 filed, and all attachments required by KRS 13A.230(1), to the executive
 24 director of the Commission on Small Business Advocacy within one (1)
 25 working day after the date the administrative regulation is filed with the
 26 Commission.

- 27 (b) The e-mail shall include a request from the administrative body that the

1 Commission on Small Business Advocacy review the administrative
 2 regulation in accordance with KRS 11.202(1)(e) and submit its report or
 3 comments in accordance with the deadline established in subsection (1)(c) of
 4 this section. A copy of the report shall be filed with the regulations compiler.

5 (5) (a) If a government may be impacted by an administrative regulation, the
 6 administrative body shall send, by e-mail if the government has an e-mail
 7 address, a copy of the administrative regulation as filed and all attachments
 8 required by KRS 13A.230(1) to each government in the state within one (1)
 9 working day after the date the administrative regulation is filed with the
 10 Commission. If the government does not have an e-mail address, the material
 11 shall not be sent.

12 (b) The e-mail shall include a request from the administrative body that the
 13 government review the administrative regulation in the same manner as would
 14 the Commission on Small Business Advocacy under KRS 11.202(1)(e), and
 15 submit its report or comments in accordance with the deadline established in
 16 subsection (1)(c) of this section. A copy of the report or comments shall be
 17 filed with the regulations compiler.

18 (6) Persons desiring to be heard at the hearing shall notify the administrative body in
 19 writing as to their desire to appear and testify at the hearing not less than five (5)
 20 workdays before the scheduled date of the hearing.

21 (7) The administrative body shall immediately notify the regulations compiler by
 22 telephone and by letter if:

23 (a) No written notice of intent to attend the public hearing is received by the
 24 administrative body at least five (5) workdays before the scheduled hearing,
 25 and it chooses to cancel the public hearing; and

26 (b) No written comments have been received by the close of the last day of the
 27 public comment period.

- 1 (8) (a) 1. Upon receipt from interested persons of their intent to attend a public
 2 hearing, the administrative body shall notify the regulations compiler by
 3 telephone and by letter that the public hearing shall be held.
- 4 2. If the public hearing is held but no comments are received during the
 5 hearing, the administrative body shall notify the regulations compiler
 6 by telephone and by letter that the public hearing was held and that no
 7 comments were received.
- 8 (b) Upon receipt of written comments, the administrative body shall notify the
 9 regulations compiler by telephone and by letter that written comments have
 10 been received.
- 11 (9) If the notifications required by subsections (7) and (8) of this section are not
 12 received by the regulations compiler by close of business on the second workday
 13 of the calendar month, the administrative regulation shall be deferred to the next
 14 regularly scheduled meeting of the subcommittee.
- 15 (10) The notifications required by subsections (7) and (8) of this section shall be made
 16 by telephone and by letter. The letter may be sent by e-mail if the administrative
 17 body uses an electronic signature and letterhead for the e-mailed document.
- 18 (11) Every hearing shall be conducted in such a manner as to guarantee each person who
 19 wishes to offer comment a fair and reasonable opportunity to do so, whether or not
 20 such person has given the notice contemplated by subsection (6) of this section. No
 21 transcript need be taken of the hearing, unless a written request for a transcript is
 22 made, in which case the person requesting the transcript shall have the
 23 responsibility of paying for same. A recording may be made in lieu of a transcript
 24 under the same terms and conditions as a transcript. This section shall not preclude
 25 an administrative body from making a transcript or making a recording if it so
 26 desires.
- 27 (12) [(10)] Nothing in this section shall be construed as requiring a separate hearing on

each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 16. KRS 13A.280 is amended to read as follows:

(1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and during the comment period, including any report filed by the Commission on Small Business Advocacy in accordance with KRS 11.202(1)(e) and 13A.270(4), or by a government in accordance with KRS 11.202(1)(e) and 13A.270(5).

(2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day of the calendar month following the month of publication~~[last day of the comment period]~~ the statement of consideration relating to the administrative regulation.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration~~[for up to thirty (30) days]~~ by notifying the regulations compiler~~[Commission]~~ in writing on or before 12 noon, eastern time, ~~on~~~~[of]~~ the fifteenth day of the calendar month following the month of publication~~[last day of the comment period]~~. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the fifteenth day of the second calendar month~~[forty-fifth day]~~ following the month of publication~~[last day of the comment period]~~.

(3) (a) If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of

1 this section.

2 (b) 1. The original and five (5) copies of the administrative regulation
3 indicating any amendments in the original wording resulting from
4 comments received at the public hearing and during the comment
5 period;

6 2. The original and five (5) copies of the statement of consideration as
7 required by subsection (2) of this section, attached to the back of the
8 original and each copy of the administrative regulation; and

9 3. The regulatory impact analysis, tiering statement, federal mandate
10 comparison, or fiscal note on local government. These documents shall
11 reflect changes resulting from amendments made after the public
12 hearing.

13 (4) (a) If the administrative regulation is not amended as a result of the public
14 hearing, or written or oral comments received, the administrative body shall
15 file the original and five (5) copies of the statement of consideration with the
16 regulations compiler by 12 noon, eastern time, on the deadline established in
17 subsection (2) of this section.

18 (b) If comments are received either at the public hearing or during the public
19 comment period~~the statement of consideration is not received by the~~
20 ~~regulations compiler at least fifteen (15) working days prior to a meeting of~~
21 ~~the Administrative Regulation Review Subcommittee~~, the administrative
22 regulation shall be deferred to the next regularly scheduled meeting of the
23 subcommittee following the month in which the statement of consideration
24 is due.

25 (5) The format for the statement of consideration shall be as follows:

26 (a) The statement shall be typewritten on white paper, size eight and one-half (8-
27 1/2) by eleven (11) inches. Copies of the statement may be mechanically

1 reproduced;

2 (b) The first page of the statement of consideration shall have a two (2) inch top
3 margin;

4 (c) The heading of the statement shall consist of the words "STATEMENT OF
5 CONSIDERATION RELATING TO" followed by the number of the
6 administrative regulation that was the subject of the public hearing and
7 comment period and the name of the promulgating administrative body. The
8 heading shall be centered. This shall be followed by the words "Not Amended
9 After Comments" or "Amended After Comments," whichever is applicable;

10 (d) If a hearing has been held or written comments received, the heading is to be
11 followed by:

12 1. A statement setting out the date, time and place of the hearing, if the
13 hearing was held;

14 2. A list of those persons who attended the hearing or who submitted
15 comments and the organization, agency, or other entity represented, if
16 applicable; and

17 3. The name and title of the representative of the promulgating
18 administrative body;

19 (e) Following the general information, the promulgating administrative body shall
20 summarize the comments received at the public hearing and during the
21 comment period and the response of the promulgating administrative body.
22 Each subject commented upon shall be summarized in a separate numbered
23 paragraph. Each numbered paragraph shall contain two (2) subsections:

24 1. Subsection (a) shall be labeled "Comment," shall identify the name of
25 the person, and the organization represented if applicable, who made the
26 comment, and shall contain a summary of the comment; and

27 2. Subsection (b) shall be labeled "Response" and shall contain the

1 response to the comment by the promulgating administrative body;

2 (f) Following the summary and comments, the promulgating administrative body
3 shall:

4 1. Summarize the statement and the action taken by the administrative
5 body as a result of comments received at the public hearing and during
6 the comment period; and

7 2. If amended after the comment period, list the changes made to the
8 administrative regulation in the format prescribed by KRS
9 13A.320(2)(c) and (d); and

10 ~~(g) If the promulgating administrative body amends the administrative regulation~~
11 ~~after a public hearing at which there were no participants other than~~
12 ~~administrative body personnel, this fact shall be noted in the statement; and~~

13 ~~(h)~~ If administrative regulations were considered as a group at a public hearing,
14 one (1) statement of consideration may include the group of administrative
15 regulations. If a comment relates to one (1) or more of the administrative
16 regulations in the group, the summary of the comment and response shall
17 specify each administrative regulation to which it applies.

18 (6) If the administrative regulation is amended pursuant to subsection (3) of this
19 section, the full text of the administrative regulation shall be published in the
20 Administrative Register. The administrative regulation shall be reviewed by the
21 Administrative Regulation Review Subcommittee after such publication.

22 (7) If requested, copies of the statement of consideration shall be made available by the
23 promulgating administrative body to persons attending the hearing or submitting
24 comments.

25 Section 17. KRS 13A.290 is amended to read as follows:

26 (1) Except as provided by KRS 158.6471 and 158.6472, the Administrative Regulation
27 Review Subcommittee shall meet monthly to review administrative regulations

prior to close of business on the fifteenth day of the calendar month. The agenda shall:

(a) Include each administrative regulation that was published in the prior month's Administrative Register not including the administrative regulations published in the "As Amended" section;

(b) Include each administrative regulation for which a statement of consideration was received on or before 12 noon, eastern time, on the fifteenth day of the prior calendar month;

(c) Include each administrative regulation that was deferred from the prior month's meeting of the subcommittee; and

(d) Not include an administrative regulation that is deferred, withdrawn, expired, or automatically taken off the agenda under the provisions of this chapter~~[within forty five (45) days after publication of an administrative regulation in "The Administrative Register," or within sixty (60) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation].~~

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to

1 the Commission its findings, recommendations, or other comments it deems
 2 appropriate in writing. The Administrative Regulation Review Subcommittee shall
 3 also forward to the Commission its findings, recommendations, or other comments
 4 it deems appropriate on an existing administrative regulation it has reviewed. One
 5 (1) copy thereof shall be sent to the promulgating administrative body[agency]. The
 6 Administrative Regulation Review Subcommittee's findings shall be published in
 7 the Administrative Register.

8 (6) (a) After review by the Administrative Regulation Review Subcommittee, the
 9 Commission shall, at its next regularly scheduled meeting, assign the
 10 administrative regulation to:

- 11 1. A subcommittee of appropriate jurisdiction over the subject matter of
 12 the administrative regulation; or
- 13 2. During a session of the General Assembly, the House of Representatives
 14 and Senate standing committees of appropriate jurisdiction over the
 15 subject matter of the administrative regulation.

16 (b) Upon notification of the assignment by the Commission, the legislative
 17 subcommittee to which the administrative regulation is assigned shall notify
 18 the regulations compiler:

- 19 1. Of the date, time, and place of the meeting at which it will consider the
 20 administrative regulation; or
- 21 2. That it will not meet to consider the administrative regulation.

22 (7) Within thirty (30) days of the assignment, the subcommittee may hold a public
 23 meeting during which the administrative regulation shall be reviewed. If the
 24 thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline
 25 for review shall be the workday following the Saturday, Sunday, or holiday. The
 26 subcommittee may also review an existing administrative regulation and make a
 27 determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and

1 place of the meeting shall be placed in the legislative calendar.

2 (8) Except as provided in subsection (9) of this section, a subcommittee shall be
3 empowered to make the same nonbinding determinations and to exercise the same
4 authority as the Administrative Regulation Review Subcommittee.

5 (9) During a session of the General Assembly, standing committees of the Senate and
6 House of Representatives shall agree in order to amend an administrative regulation
7 or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and
8 (3) by:

9 (a) Meeting separately; or

10 (b) Meeting jointly. If the standing committees meet jointly, it shall require a
11 majority vote of Senate members voting and a majority of House members
12 voting in order to take action on the administrative regulation.

13 (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has
14 considered an administrative regulation pursuant to subsection (7) of this
15 section, the subcommittee shall inform the regulations compiler of its
16 findings, recommendations, or other action taken on the administrative
17 regulation.

18 (b) Following the meeting and before the next regularly scheduled meeting of the
19 Commission, the subcommittee shall forward to the Commission its findings,
20 recommendations, or other comments it deems appropriate in writing. One (1)
21 copy thereof shall be sent to the promulgating administrative body~~[agency]~~.
22 The subcommittee's findings shall be published in the Administrative
23 Register.

24 Section 18. KRS 13A.300 is amended to read as follows:

25 (1) The administrative body which has promulgated an administrative regulation may
26 request~~[at a meeting of a subcommittee]~~ that consideration of the administrative
27 regulation be deferred by the subcommittee.

1 (a) A request for deferral shall be automatically granted if:

2 1. The administrative body submits a written letter to the regulations
3 compiler; and

4 2. The letter is received prior to the subcommittee meeting.

5 (b) A request for deferral may be granted at the discretion of the subcommittee
6 if the request is made by the administrative body orally at a meeting of the
7 subcommittee~~[Upon receipt of the request, the subcommittee may defer~~
8 ~~consideration of the administrative regulation].~~

9 (2) A subcommittee may request that consideration of an administrative regulation be
10 deferred by the promulgating administrative body. Upon receipt of the request, the
11 promulgating administrative body may agree to defer consideration of the
12 administrative regulation.

13 (3) Except as provided in subsection (4) of this section, an administrative regulation
14 that has been deferred shall be placed on the agenda of the next scheduled meeting
15 of the subcommittee that is reviewing the administrative regulation. The
16 subcommittee shall consider the administrative regulation as if it had met all other
17 requirements of filing. Repromulgation shall not be required in those~~[such]~~ cases.

18 (4) An administrative regulation that has not gone into effect within one (1) year of
19 the date of publication shall expire as provided in Section 20 of this Act.

20 Section 19. KRS 13A.310 is amended to read as follows:

21 (1) An administrative regulation, once adopted, cannot be withdrawn but shall be
22 repealed if it is desired that it no longer be effective.

23 (2) An administrative regulation, once adopted, cannot be suspended but shall be
24 repealed if it is desired to suspend its effect.

25 (3) (a) An administrative regulation shall be repealed only by the promulgation of an
26 administrative regulation that:

27 1. Is titled "Repeal of (state number of administrative regulation to be

- 1 repealed)";
- 2 2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND
- 3 CONFORMITY" paragraph;
- 4 3. Includes in the body of the administrative regulation, a citation to the
- 5 number and title of the administrative regulation or regulations being
- 6 repealed; and
- 7 4. Meets the filing and formatting requirements of KRS 13A.220.
- 8 (b) On the effective date of an administrative regulation that repeals an
- 9 administrative regulation, the regulations compiler shall delete the repealed
- 10 administrative regulation and the repealing administrative regulation from the
- 11 Kentucky Administrative Regulations Service.
- 12 (c) An administrative body may repeal more than one (1) administrative
- 13 regulation in an administrative regulation promulgated pursuant to paragraph
- 14 (a) of this subsection if the administrative regulations being repealed are
- 15 contained in the same chapter of the Kentucky Administrative Regulations
- 16 Service.
- 17 (4) (a) An ordinary administrative regulation may be withdrawn by the promulgating
- 18 administrative body[agency] at any time prior to its adoption.
- 19 (b) An ordinary administrative regulation that has been found deficient may be
- 20 withdrawn by the promulgating administrative body[agency] at any time prior
- 21 to receipt by the regulations compiler of the determination of the Governor
- 22 made pursuant to KRS 13A.330 or 13A.331 or may be withdrawn by the
- 23 Governor.
- 24 (c) If an ordinary administrative regulation is withdrawn, the administrative body
- 25 or the Governor shall inform the regulations compiler of the reasons for
- 26 withdrawal in writing.
- 27 (5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated,

1 except by repromulgation as a totally new matter.

2 Section 20. KRS 13A.315 is amended to read as follows:

3 (1) An administrative regulation shall expire~~[be withdrawn]~~ and shall not be reviewed
4 by a legislative subcommittee if:

5 (a) It has not been reviewed or approved by the official or administrative body
6 with authority to review or approve;

7 (b) An item is not filed on or before a deadline specified by this chapter;~~[or]~~

8 (c) The administrative body has failed to comply with the provisions of this
9 chapter governing the filing of administrative regulations, the public hearing
10 and public comment period~~[hearings]~~, ~~or~~~~[and]~~ the statement of consideration;
11 or

12 (d) The administrative regulation is deferred more than twelve (12) months.

13 (2) An administrative regulation which has not complied with all the provisions of this
14 chapter and any administrative regulations promulgated under this chapter shall be
15 considered procedurally defective and void.

16 (3) (a) An administrative regulation that has been found deficient by a subcommittee
17 shall be withdrawn immediately~~[by the promulgating administrative body]~~ if,
18 pursuant to KRS 13A.330 or 13A.331, the Governor has determined that it
19 shall be withdrawn.

20 (b) The Governor~~[promulgating administrative body]~~ shall notify the regulations
21 compiler in writing and by telephone that he or she has determined that the~~it~~
22 ~~is withdrawing an~~ administrative regulation found deficient shall be
23 withdrawn~~[governed by the provisions of this subsection]~~.

24 (c) The written withdrawal of an administrative regulation governed by the
25 provisions of this subsection shall be made in a letter to the regulations
26 compiler in the following format: "Pursuant to KRS 13A.330(2)(b) or
27 13A.331(2)(b), I have~~[the Governor has]~~ determined that (administrative

1 regulation number and title) shall be (withdrawn, or withdrawn and amended
 2 to conform to the finding of deficiency, as applicable). The administrative
 3 regulation,~~[(name of promulgating administrative body) withdraws]~~
 4 (administrative regulation number and title), is hereby withdrawn."

- 5 (d) An administrative regulation governed by the provisions of this subsection
 6 shall be considered withdrawn upon receipt by the regulations compiler of the
 7 written withdrawal.

8 Section 21. KRS 13A.320 is amended to read as follows:

- 9 (1) (a) An administrative body may amend an administrative regulation at a
 10 subcommittee meeting with the consent of the subcommittee. A subcommittee
 11 may amend an administrative regulation at a subcommittee meeting with the
 12 consent of the administrative body.

- 13 (b) An administrative regulation shall not be amended at a public meeting of a
 14 subcommittee unless the amendment concerns an issue that was related to the
 15 administrative regulation filed with the Legislative Research Commission and
 16 was:

- 17 1. Considered at the public hearing; or
- 18 2. Raised pursuant to a comment received by the administrative body at the
 19 public hearing or during the public comment period pursuant to KRS
 20 13A.280(1); or
- 21 3. Raised by the subcommittee.

- 22 (c) Nothing in this chapter shall be construed to require its resubmission or
 23 refileing or other action. The administrative regulation may be adopted as
 24 amended.

- 25 (d) Subsequent to its adoption, the administrative regulation shall be published in
 26 the Administrative Register, unless all amendments to the administrative
 27 regulation that were made at a meeting of a subcommittee:

1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and ~~Q[(k)]~~; and
 2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.
- (e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.
- (2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:
- (a) Amendments offered by the administrative body~~[to resolve issues raised by a subcommittee]~~ prior to a subcommittee~~[its]~~ meeting shall be approved by the head of the administrative body.
 - (b) Amendments~~[initiated by the administrative body]~~ shall be contained in a letter to the subcommittee. The letter shall:
 1. Identify the administrative body;
 2. State the number and title of the administrative regulation;
 3. Be dated;
 4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee if the amendments are initiated by the administrative body; and
 5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.
 - (c) On separate lines, the amendment shall be identified by the number of the:
 1. Page;
 2. Section, subsection, paragraph, subparagraph, clause, or subclause, as

1 appropriate; and

2 3. Line.

3 (d) 1. If a word or phrase, whether or not underlined, is to be deleted, the
4 amendment shall identify the word or phrase to be deleted and state that
5 it is to be deleted. If a word or phrase is to be replaced by another word
6 or phrase, the amendment shall specify the word or phrase that is to be
7 deleted and shall specify the word or phrase that is to be inserted in lieu
8 thereof.

9 2. If new language is to be inserted, the amendment shall state that it is to
10 be inserted, and the new language shall be underlined.

11 3. If the amendment consists of no more than four (4) words, the words
12 shall be placed between quotation marks. If the amendment consists of
13 more than four (4) words, the amendment shall be indented and not
14 placed between quotation marks.

15 4. If a section, subsection, paragraph, subparagraph, clause, or subclause is
16 to be deleted in its entirety, the amendment shall identify it and state that
17 it is deleted in its entirety, whether or not it contains underlined or
18 bracketed language.

19 (3) An administrative body shall submit twenty (20) copies of an amendment to an
20 administrative regulation to the regulations compiler prior to the Administrative
21 Regulation Review Subcommittee meeting at which the amendment will be
22 considered.

23 Section 22. KRS 13A.330 is amended to read as follows:

24 The provisions of this section shall apply to administrative regulations that are assigned
25 pursuant to KRS 13A.290(6)(a)1.

26 (1) An administrative regulation that has not been found deficient by a legislative
27 subcommittee shall be considered as adopted and shall become effective:

- 1 (a) Upon adjournment on the day a subcommittee meets to consider the
- 2 administrative regulation pursuant to KRS 13A.290(7) if:
 - 3 1. The administrative regulation is on the agenda of the subcommittee
 - 4 meeting;
 - 5 2. A quorum of the subcommittee is present; and
 - 6 3. The subcommittee:
 - 7 a. Considers the administrative regulation; or
 - 8 b. Fails to consider the administrative regulation and fails to agree to
 - 9 defer its consideration of the administrative regulation; or
- 10 (b) If a subcommittee fails to meet within thirty (30) days of assignment of an
- 11 administrative regulation as provided in KRS 13A.290(7), or does not place
- 12 the administrative regulation on the agenda of a meeting held within thirty
- 13 (30) days of the referral of the administrative regulation to it by the
- 14 Commission, at the expiration of the thirty (30) day period.
- 15 (2) If an administrative regulation has been found deficient by a legislative
- 16 subcommittee, the legislative subcommittee shall transmit to the Governor:
 - 17 (a) A copy of its finding of deficiency and other findings, recommendations, or
 - 18 comments it deems appropriate; and
 - 19 (b) A request that the Governor determine whether the administrative regulation
 - 20 shall:
 - 21 1. Be withdrawn;
 - 22 2. Be withdrawn and amended to conform to the finding of deficiency; or
 - 23 3. Become effective pursuant to the provisions of this section
 - 24 notwithstanding the finding of deficiency.
- 25 (3) If an administrative regulation has been found deficient by a legislative
- 26 subcommittee, the legislative subcommittee shall transmit copies of its transmittal
- 27 to the Governor to the regulations compiler.

1 (4) The Governor shall transmit his determination to the Commission and the
2 regulations compiler.

3 (5) An administrative regulation that has been found deficient by a legislative
4 subcommittee shall be considered as adopted and become effective after:

5 (a) 1. The subcommittee of appropriate jurisdiction to which an administrative
6 regulation was assigned pursuant to KRS 13A.290(6) has:

- 7 a. Considered the administrative regulation;
- 8 b. Failed to consider the administrative regulation and failed to agree
9 to defer its consideration of the administrative regulation; or
- 10 c. Failed to meet within thirty (30) days of such assignment; and

11 2. The regulations compiler has received the Governor's determination~~[s]~~
12 that the administrative regulation shall become effective pursuant to the
13 provisions of this section notwithstanding the finding of deficiency; or

14 (b) The legislative subcommittee that found the administrative regulation
15 deficient subsequently determines that the administrative regulation is not
16 deficient, provided that this determination was made prior to receipt by the
17 regulations compiler of the Governor's determination.

18 Section 23. KRS 13A.335 is amended to read as follows:

19 (1) An administrative regulation found deficient by a subcommittee shall not **be**
20 **considered deficient**~~[expire]~~ if:

21 (a) A subsequent amendment of that administrative regulation is filed with the
22 Commission by the administrative body;

23 (b) The subcommittee that found the administrative regulation deficient approves
24 a motion that the subsequent amendment corrects **the**~~[such]~~ deficiency; and

25 (c) Any subcommittee that reviews the administrative regulation under the
26 provisions of KRS Chapter 13A finds that the administrative regulation is not
27 deficient.

- 1 (2) An administrative regulation found deficient by the Administrative Regulation
2 Review Subcommittee shall not **be considered deficient**~~[expire]~~ if:
- 3 (a) The administrative regulation is amended to correct the deficiency at a
4 meeting of the subcommittee to which it was assigned by the Commission;
- 5 (b) That subcommittee does not determine that the administrative regulation is
6 deficient for any other reason; and
- 7 (c) The Administrative Regulation Review Subcommittee approves a motion that
8 the deficiency has been corrected and that the administrative regulation should
9 not **be considered deficient**~~[expire]~~.
- 10 (3) An administrative regulation found deficient by a subcommittee shall not **be**
11 **considered deficient**~~[expire]~~ if the subcommittee:
- 12 (a) Reconsiders the administrative regulation and its finding of deficiency; and
- 13 (b) Approves a motion that the administrative regulation is not deficient.
- 14 (4) (a) If an existing administrative regulation has been amended and found deficient
15 by a subcommittee, it shall not **be considered deficient**~~[expire]~~ if the:
- 16 1. Administrative regulation was found deficient due to the amendment;
- 17 2. Promulgating administrative body has withdrawn the proposed
18 amendment of the existing administrative regulation; and
- 19 3. Regulations compiler has not received the Governor's determination
20 pursuant to KRS 13A.330 or 13A.331.
- 21 (b) If an administrative regulation has been found deficient by a subcommittee,
22 the regulations compiler shall add the following notice to the administrative
23 regulation: "This administrative regulation **was found deficient by the [name**
24 **of subcommittee] on [date]**~~[shall expire on adjournment of the next regular~~
25 ~~session of the General Assembly]~~." This notice shall be the last section of the
26 administrative regulation.
- 27 (c) If an administrative regulation has been found deficient by a subcommittee,

1 subsequent amendments of that administrative regulation filed with the
2 Commission shall contain the notice provided in paragraph (b) of this
3 subsection.

4 (d) If an administrative regulation that has been found deficient by a
5 subcommittee has subsequently been~~[-amended and]~~ determined not to be
6 deficient under the provisions of this section, the regulations compiler shall
7 delete the notice required by paragraph (b) of this subsection.

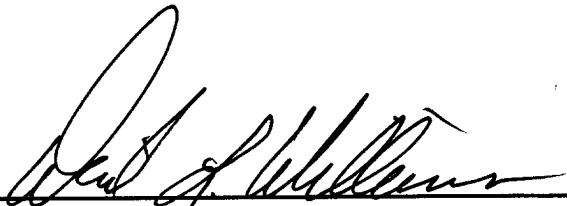
8 Section 24. The following KRS sections are repealed:

9 13A.012 Inclusion of osteopaths within references to physicians in administrative
10 regulations.

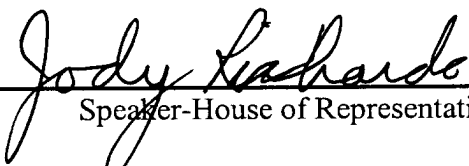
11 13A.2264 Incorporation by reference of federal regulation -- Prohibitions.

12 13A.2267 Certain federal regulations prohibited from incorporation -- Procedure for
13 submission of federal regulations.

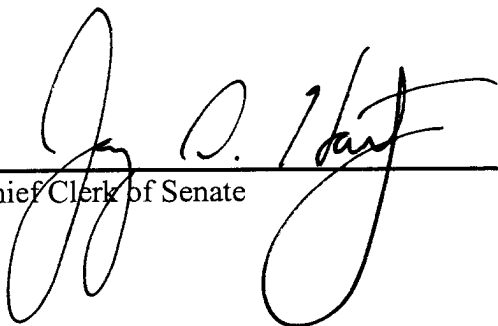
14 Section 25. Any administrative regulations that have been deferred twelve (12) or
15 more months as of the effective date of this Act shall expire three months after the
16 effective date of this Act if those administrative regulations continue to be deferred.



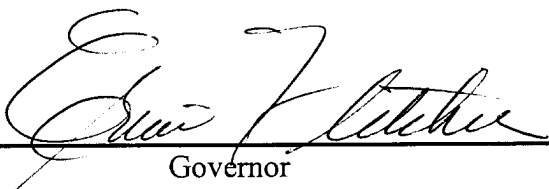
President of the Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 
